

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GREG HANSEN, MARY HANSEN, )  
ROSCOE CORELL, LAWRENCE J. )  
DONLAN, Individuals, )

4:07CV3261

Plaintiffs, )

v. )

LEE POLIKOV, in his capacity as )  
Sarpy County Attorney, and JOHN )  
W. STACEY, in his capacity as Chief )  
of Bellevue Police Department, )

Defendants. )

**MEMORANDUM  
AND ORDER**

Pending before me are three motions for summary judgment in this abortion picketing case. I will deny all of them.

Among other things, there are material facts in dispute regarding (1) precisely what the plaintiffs did and did not do and when they did it; (2) the precise location of each of the plaintiffs' acts in relationship to the homes of the abortion workers; and (3) whether the issuance of the citations and commencement of the prosecutions represented a custom, policy or practice of each of the defendants and, if so, the precise nature and extent of that custom, policy or practice.

I add a comment. This case should be settled by the lawyers reaching a reasonable construction of the statutes that allows the plaintiffs to exercise their First Amendment rights while preserving the rights of the abortion workers to enjoy the sanctity of their homes. I know that the excellent lawyers who are involved in this case are capable of reaching a solution that reasonably, albeit perhaps not perfectly,

satisfies these twin interests. To be blunt, “you guys will do a better job for your clients than I will, so do it!”

If this case does not settle, then the pretrial conference order should carefully address and set forth the precise issues that are to be submitted to the jury. Judge Piester will be requested to make it so.

IT IS ORDERED that:

1. The motions for summary judgment (filings [51](#), [55](#) and [57](#)) are denied.
2. Judge Piester is requested to see to it that the pretrial conference order addresses and then sets forth the precise issues that are to be submitted to the jury. My chambers shall provide Judge Piester with a copy of this memorandum and order.

October 6, 2008.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge